

Office of the Secretary of Transportation

§ 89.43

amount of the claim, status and history of the claim, and the program under which the claim arose.

§ 89.31 Use of professional debt collection agencies.

Debts over 90 days delinquent (see § 89.21(b)(4)) may be turned over to professional debt collection agencies except for those debts owed by State and local governments, other Federal agencies, current employees, and other debts prohibited by statute from being turned over to commercial collection agencies.

§ 89.33 [Reserved]

Subpart C—Referral of Debts to IRS for Tax Refund Offset

SOURCE: 54 FR 28681, July 7, 1989, unless otherwise noted.

§ 89.37 Applicability and scope.

(a) This subpart implements 31 U.S.C. 3720A which authorizes the IRS to reduce a tax refund by the amount of a past-due legally enforceable debt owed to the United States.

(b) For purposes of this subpart, a past-due legally enforceable debt referable to the IRS is:

(1) A debt which:

(i) Is owed to the United States;

(ii) Is at least \$25.00;

(iii) Except in the case of a judgment debt, has been delinquent for at least three months but has not been delinquent for more than ten years at the time the offset is made;

(iv) Cannot be currently collected pursuant to the salary offset provisions of 5 U.S.C. 5514(a)(1);

(v) Is ineligible for administrative offset under 31 U.S.C. 3716(a) by reason of 31 U.S.C. 3716(c)(2) or cannot be collected by administrative offset under 31 U.S.C. 3716(a) by the Department against amounts payable to or on behalf of the debtor by or on behalf of the Department;

(vi) Has been disclosed by the Department to a consumer reporting agency as authorized by 31 U.S.C. 3711(f), unless a consumer reporting agency would be prohibited from using such information by 15 U.S.C. 1681c, or unless

the amount of the debt does not exceed \$100.00; and

(2) A debt for which the Department has:

(i) Notified or has made reasonable attempt to notify the taxpayer that the debt is past-due and, that the debt, unless repaid within 60 days thereafter, will be referred to the IRS for offset against any overpayment of tax;

(ii) Given the debtor at least 60 days from the date of notification to present information that all or part of the debt is not past-due or legally enforceable, has considered information presented by such debtor, and has determined that an amount of debt is past-due and legally enforceable;

§ 89.39 Administrative charges.

In accordance with 4 CFR 102.13, all administrative charges incurred in connection with the referral of the debt to the IRS shall be added to the debt and thus increase the amount of the offset.

§ 89.41 Notice requirement before offset.

A request for offset from an IRS tax refund will be made only after the Department has made a determination that an amount is owed and past-due and provides the debtor with 60 days written notice. The Department's notice of intention to collect by IRS tax refund offset (Notice of Intent) includes:

(a) The amount of the debt;

(b) That unless the debt is repaid within 60 days from the date of the Department's Notice of Intent, the Department will refer the debt to the IRS for offset against any amount due the debtor as a tax refund;

(c) That the debtor has a right to present information that all or part of the debt is not past-due or legally enforceable; and

(d) A mailing address for forwarding any written correspondence and a contact name and telephone number for any questions.

§ 89.43 Review within the Department.

(a) *Notification by debtor.* A debtor who receives a Notice of Intent may present, for 60 days from the date of the Notice of Intent, information that

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all or part of the debt is not past-due or legally enforceable. (However, this does not extend the regulatory period for submitting written statements or for requesting an administrative hearing on the merits of an alleged violation, nor does it extend the period to appeal an assessed civil penalty.) To comply with this procedure, the debtor must:

(1) Send a written request for a review of the information to the address provided in the notice.

(2) State in the request the amount disputed and the reasons why the debtor believes that the debt is not past-due or legally enforceable.

(3) Include in the request any documents which the debtor wishes to be considered or state that additional information will be submitted within the remainder of the 60 day period.

(b) *Submission of information.* The debtor may submit information showing that all or part of the debt is not past-due or not legally enforceable along with the notification required by paragraph (a) of this section. Failure to submit the information within the remainder of the 60 day period will be interpreted as there is no additional information for consideration.

(c) *Review of the information.* The Department considers all available information related to the issue of whether the debt is past-due and the issue of whether the debt is legally enforceable. After a decision has been reached, the Department notifies the debtor whether the Department has sustained amended, or cancelled its determination that the debt is past-due and legally enforceable.

§ 89.45 Department determination.

(a) Following review of the information, the Department notifies the debtor with a written decision that includes the supporting rationale.

(b) If the Department either sustains or amends its determination, it shall notify the debtor that the debt is being referred to the IRS for offset against the debtor's Federal income tax refund. If the Department determines that there is no legally enforceable debt or that full payment has been made, the case will be closed.

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§ 89.47 Stay of offset.

If the debtor timely notifies the Department that he or she is complying with the procedures in § 89.43(a) of this subpart and timely submits additional information in accordance with § 89.43(b) of this subpart, the debt will not be referred to the IRS while the matter is under review by the Department. Referral will not be made until the issuance of a written decision, in accordance with § 89.45 of this subpart, which sustains or amends the Department's original determination.

PART 91—INTERNATIONAL AIR TRANSPORTATION FAIR COMPETITIVE PRACTICES

Sec.

91.1 Purpose.

91.3 Investigations.

91.5 Findings and recommendations.

91.7 Determination of compensatory charges.

91.9 Distribution of compensatory funds.

91.11 Standards.

91.13 Refunds.

AUTHORITY: Secs. 2-3, 88 Stat. 2103, 49 U.S.C. 1159a and 1159b, Pub. L. 93-623.

SOURCE: 41 FR 54770, Dec. 15, 1976, unless otherwise noted.

§ 91.1 Purpose.

The purpose of this part is to prescribe the Secretary's role in executing his responsibilities under sections 2 and 3 of the International Air Transportation Fair Competitive Practices Act of 1974 to the end that U.S. flag air carriers operating in foreign air transportation are protected from all forms of discrimination or unfair competitive practices and are compensated for excessive or otherwise discriminatory charges levied by foreign governments or other foreign entities for the use of airport or airway property.

§ 91.3 Investigations.

The Assistant Secretary for Policy, Plans and International Affairs (Assistant Secretary), in coordination with the General Counsel and the Federal Aviation Administrator (Administrator), on complaint of any U.S. flag air carrier or on their own initiative,